



January 20, 2006

SENATE BILL No. 355

DIGEST OF SB 355 (Updated January 18, 2006 4:36 pm - DI 102)

Citations Affected: IC 6-1.1; noncode.

Synopsis: Property tax late payment penalty waiver. Provides for a waiver by the county treasurer of a property tax late payment penalty if an immediate family member of the taxpayer was hospitalized or died in the week preceding the installment due date. Allows an appeal of a penalty waiver denial.

Effective: July 1, 2006.

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January 10, 2006, read first time and referred to Committee on Governmental Affairs and Interstate Cooperation.
January 19, 2006, reported favorably — Do Pass.

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SB 355—LS 6742/DI 52+



January 20, 2006

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

SENATE BILL No. 355

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-1.1-1-8 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. "General assessment
3 provisions of this article" means the law contained in:

4 (1) chapters 3, 4, 5, 9, 11, 13, 14, 15, 16, 28, 31, and 35 of this
5 article;

6 (2) sections 4, 6, 7, 8, 11, 12, and 13 of chapter 30 of this article;

7 (3) sections 1 through 7, inclusive, of chapter 36 of this article; and

8 (4) sections 2, 3, 7, 8, 9, **10.7**, 11, 12, and 13 of chapter 37 of this
9 article.

10 SECTION 2. IC 6-1.1-37-9 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) This section
12 applies when:

13 (1) an assessment is made or increased after the date or dates on
14 which the taxes for the year for which the assessment is made
15 were originally due;

16 (2) the assessment upon which a taxpayer has been paying taxes
17 under IC 6-1.1-15-10(a)(1) or ~~(a)(2)~~ **IC 6-1.1-15-10(a)(2)** while



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a petition for review or a judicial proceeding has been pending is less than the assessment that results from the final determination of the petition for review or judicial proceeding; or
 (3) the collection of certain ad valorem property taxes has been stayed under IC 4-21.5-5-9, and under the final determination of the petition for judicial review the taxpayer is liable for at least part of those taxes.

(b) Except as provided in subsections (c) and (g), a taxpayer shall pay interest on the taxes the taxpayer is required to pay as a result of an action or a determination described in subsection (a) at the rate of ten percent (10%) per year from the original due date or dates for those taxes to:

(1) the date of payment; or

(2) the date on which penalties for the late payment of a tax installment may be charged under subsection (e) or (f);

whichever occurs first.

(c) Except as provided in subsection (g), a taxpayer shall pay interest on the taxes the taxpayer is ultimately required to pay in excess of the amount that the taxpayer is required to pay under IC 6-1.1-15-10(a)(1) while a petition for review or a judicial proceeding has been pending at the overpayment rate established under Section 6621(c)(1) of the Internal Revenue Code in effect on the original due date or dates for those taxes from the original due date or dates for those taxes to:

(1) the date of payment; or

(2) the date on which penalties for the late payment of a tax installment may be charged under subsection (e) or (f);

whichever occurs first.

(d) With respect to an action or determination described in subsection (a), the taxpayer shall pay the taxes resulting from that action or determination and the interest prescribed under subsection (b) or (c) on or before:

(1) the next May 10; or

(2) the next November 10;

whichever occurs first.

(e) A taxpayer shall, to the extent that the penalty is not waived under section 10.5 **or 10.7** of this chapter, begin paying the penalty prescribed in section 10 of this chapter on the day after the date for payment prescribed in subsection (d) if:

(1) the taxpayer has not paid the amount of taxes resulting from the action or determination; and

(2) the taxpayer either:

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(A) received notice of the taxes the taxpayer is required to pay as a result of the action or determination at least thirty (30) days before the date for payment; or

(B) voluntarily signed and filed an assessment return for the taxes.

(f) If subsection (e) does not apply, a taxpayer who has not paid the amount of taxes resulting from the action or determination shall, to the extent that the penalty is not waived under section 10.5 **or 10.7** of this chapter, begin paying the penalty prescribed in section 10 of this chapter on:

(1) the next May 10 which follows the date for payment prescribed in subsection (d); or

(2) the next November 10 which follows the date for payment prescribed in subsection (d);

whichever occurs first.

(g) A taxpayer is not subject to the payment of interest on real property assessments under subsection (b) or (c) if:

(1) an assessment is made or increased after the date or dates on which the taxes for the year for which the assessment is made were due;

(2) the assessment or the assessment increase is made as the result of error or neglect by the assessor or by any other official involved with the assessment of property or the collection of property taxes; and

(3) the assessment:

(A) would have been made on the normal assessment date if the error or neglect had not occurred; or

(B) increase would have been included in the assessment on the normal annual assessment date if the error or neglect had not occurred.

SECTION 3. IC 6-1.1-37-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10. (a) Except as provided in ~~section 10.5~~ **sections 10.5 and 10.7** of this chapter, if an installment of property taxes is not completely paid on or before the due date, a penalty equal to ten percent (10%) of the amount of delinquent taxes shall be added to the unpaid portion in the year of the initial delinquency.

(b) With respect to property taxes due in two (2) equal installments under IC 6-1.1-22-9(a), on the day immediately following the due dates in May and November of each year following the year of the initial delinquency, an additional penalty equal to ten percent (10%) of any taxes remaining unpaid shall be added. With respect to property taxes

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1 due in installments under IC 6-1.1-22-9.5, an additional penalty equal
 2 to ten percent (10%) of any taxes remaining unpaid shall be added on
 3 the day immediately following each date that succeeds the last
 4 installment due date by:

- 5 (1) six (6) months; or
- 6 (2) a multiple of six (6) months.

7 (c) The penalties under subsection (b) are imposed only on the
 8 principal amount of the delinquent taxes.

9 (d) If the department of local government finance determines that
 10 an emergency has occurred which precludes the mailing of the tax
 11 statement in any county at the time set forth in IC 6-1.1-22-8, the
 12 department shall establish by order a new date on which the installment
 13 of taxes in that county is due and no installment is delinquent if paid by
 14 the date so established.

15 (e) If any due date falls on a Saturday, a Sunday, a national legal
 16 holiday recognized by the federal government, or a statewide holiday,
 17 the act that must be performed by that date is timely if performed by
 18 the next succeeding day that is not a Saturday, a Sunday, or one (1) of
 19 those holidays.

20 (f) A payment to the county treasurer is considered to have been
 21 paid by the due date if the payment is:

- 22 (1) received on or before the due date to the county treasurer or a
- 23 collecting agent appointed by the county treasurer;
- 24 (2) deposited in the United States mail:
 - 25 (A) properly addressed to the principal office of the county
 - 26 treasurer;
 - 27 (B) with sufficient postage; and
 - 28 (C) certified or postmarked by the United States Postal Service
 - 29 as mailed on or before the due date; or
 - 30 (3) deposited with a nationally recognized express parcel carrier
 - 31 and is:
 - 32 (A) properly addressed to the principal office of the county
 - 33 treasurer; and
 - 34 (B) verified by the express parcel carrier as:
 - 35 (i) paid in full for final delivery; and
 - 36 (ii) received on or before the due date.

37 For purposes of this subsection, "postmarked" does not mean the date
 38 printed by a postage meter that affixes postage to the envelope or
 39 package containing a payment.

40 SECTION 4. IC 6-1.1-37-10.7 IS ADDED TO THE INDIANA
 41 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 42 [EFFECTIVE JULY 1, 2006]: **Sec. 10.7. (a) For purposes of this**

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section, "immediate family member of the taxpayer" means an individual who:

- (1) is the spouse, child, stepchild, parent, or stepparent of the taxpayer, including adoptive relationships; and
- (2) resides in the taxpayer's home.

(b) The county treasurer shall do the following:

(1) Waive the penalty imposed under section 10(a) of this chapter if:

(A) the taxpayer petitions the county treasurer to waive the penalty not later than thirty (30) days after the due date of the installment subject to the penalty; and

(B) the taxpayer files with the petition written proof that during the seven (7) day period ending on the installment due date any of the following occurred:

(i) An immediate family member of the taxpayer was admitted to a hospital.

(ii) An immediate family member of the taxpayer died.

(2) Give written notice to the taxpayer by mail of the treasurer's determination on the petition not later than thirty (30) days after the petition is filed with the treasurer.

(c) The department of local government finance shall prescribe:

(1) the form of the petition; and

(2) the type of written proof;

required under subsection (b).

(d) A taxpayer may appeal a determination of the county treasurer under subsection (b) to deny a penalty waiver by requesting in writing a preliminary conference with the treasurer not more than forty-five (45) days after the treasurer gives the taxpayer notice of the determination. An appeal initiated under this subsection is processed and determined in the same manner that an appeal is processed and determined under IC 6-1.1-15.

SECTION 5. [EFFECTIVE JULY 1, 2006] IC 6-1.1-37-10.7, as added by this act, applies only to property taxes first due and payable after June 30, 2006.

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COMMITTEE REPORT

Madam President: The Senate Committee on Governmental Affairs and Interstate Cooperation, to which was referred Senate Bill No. 355, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 355 as introduced.)

RIEGSECKER, Chairperson

Committee Vote: Yeas 8, Nays 0.

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